

**Milton Planning & Zoning Commission Meeting**  
**Milton Library**  
**Tuesday, May 19, 2009**  
**7:00 p.m.**

1. Virginia Weeks called the meeting called to order at 7:00 p.m.

Roll call of Members:

Ted Kanakos	Richard Greig
Al Perkins	Louise Frey
Ed Kost	Gene Steele
Virginia Weeks	

2. Changes, additions, corrections or deletions to the Agenda

V. Weeks – Are there any changes, additions, or corrections to the agenda? No additions or corrections to the agenda? May I have a motion approving the agenda?

T. Kanakos – I make a motion that we approve the agenda.

V. Weeks – Do we have a second?

A. Perkins - I second that motion.

V. Weeks – May I have a voice vote please? All in favor? (All respond; I)

3. Approval of Minutes from March 21, 2009

V. Weeks – Approved the minutes. Approval of minutes for March 17, 2009. Does anybody have any corrections or modifications to the minutes as presented from March 17, 2009? No? There being none may I have a motion for the approval of the minutes?

T. Kanakos – I make a motion for the approval of the minutes.

V. Weeks – May I have a second, please?

G. Steele – Second.

V. Weeks – Voice Vote. All in favor?

All respond – I.

L. Frey – Abstain.

V. Weeks – Ok, so we have six I's and one abstain by Commissioner Frey.

4. Business

V. Weeks - Ok getting on to the business of the evening. We have here final site plans for two parcels at the Milton Park Center. First point of business is;

**Final Site Plan Approval – Commercial/Retail Site Plan**

The applicant, Larson Engineering is requesting final site plan approval for one story, 12,457 square feet retail building on 1.32 acres in the Milton Park Center

located at the corner of RT #16 & Rails to Trails #5. The property is zoned C1 (Commercial) and is further identified by Sussex County Tax Map and Parcel #2-35-14.15-68.00.

V. Weeks – Does the applicant have anything he wants to say?

R. Stanley – Larson Engineering. It's fairly self explanation. I don't really have too much to say other than;

R. Larson – I'm with Milton Park Center.

R. Stanley – What we've done is picked up the project from the previous engineer and tried and did address all the issues outstanding on parcel "A" and then laid out the plans for parcel "B" and that's what you see before you and what was presented and we do have all the approvals in hand from Conservation District, Del Dot, Fire Marshall, and I believe that's it. I will take any questions that you might have.

V. Weeks – Does anybody on the board have any questions?

T. Kanakos – One of the things that I was concerned about initially, and then with the renewal and all of this going back two years, I just to be assured that there are curbs being put along RT #16.

R. Stanley – That is mandate.

R. Larson – Yes; that is why we were delayed.

T. Kanakos – Great! Ok.

R. Stanley – Also, I do know that there was an issue with the irrigation and landscaping. We have since contracted out to have both plans done in detail; including the irrigation plan which has been approved by the engineer.

V. Weeks – But he's not part of our packet.

R. Stanley – No.

V. Weeks – Is there a reason why not?

R. Stanley – No. Was there none submitted there?

B. Kerr – Cabe Associates. Town Engineer. I'll see if I can help that out. In reviewing, there were a couple of items that needed to be revised on the irrigation. There's no requirement within the town code requiring those drawings to be submitted an in no other site plan or sub division that has irrigation has a plan ever been submitted as part of the Planning and Zoning. There are notes on the drawing requiring an irrigation system to be installed, but the actual details Robin and I discussed and we felt that it was more a portion of the building permit. The drawings say that they have to do it; the final details are more along the lines of what you get into at the building permit process. The applicant has agreed that they will submit the plans at that time as part of the building process. I think they're done. It was a matter of getting it done; that was the only thing that would delay it coming before you this evening. With the time extension running out; and myself being on vacation; that was the decision Robin and I made, so I have to take some of the blame if you wish to see those.

V. Weeks - The reason I asked, actually, that is on the landscaping page it references the irrigation pages in the plan and they weren't there, so I was wondering why they weren't there. References I-1 & I-2. I think IR-1 & IR-2 on page L-1 of the small packet.

B. Kerr – That was basically, in my reasoning, was not enough time to get it to you and it is not something that you have looked at before. The biggest problem that I saw in the drawing and it's something they have agreed; it that they showed one point of connection to the town water system. Where as you know this is two parcels and I felt that in the future it could be sold as two parcels so that the irrigation system did need to be split and have two points of connection, two water meters, and everything associated with that.

V. Weeks – Absolutely, I just wanted to get all this on the record which is why I asked that. Does the board have any questions about that? No? Any other questions or comments?

L. Frey – Yes, I do. The landscaping plan. There are some dead trees behind the building; do they get take out?

R. Larson – I don't know. I went by there; I didn't see them tonight. I think they've been taken back.

L. Frey – Dead trees behind Happy Harry's.

R. Larson – We have contracted to have them replaced. If they haven't been yet, then they will be.

V. Weeks – Any other questions?

R. Greig – About three years ago I was on a Planning & Zoning Board and we discussed this very thing then; and there were two issues in my memory seem to be something that we talked about quite a bit. One of them was traffic flow. Could you walk me through that real quickly, please?

V. Weeks – On that issue, I agree with you Richard. On that issue I would like to say that I expected to see some sort of drawing of the building so we would know where the pedestrian walkways were; the pedestrian doors; where people would be entering; where they are not going to be entering; what kind of exit you have in the back of the building; none of that is here. Nor is there a drawing of the building; you just say 28 feet high. You claim that it is going to be one story; I don't know if that is going to be a flat roof; there are a lot of things that not having those drawing leaves us up in the air about.

R. Stanley? – The buildings themselves will be matching the existing buildings. That is per the plan as well. I forget which note it is, but it is on there. There were plans that are part of the construction plans that show exactly the pedestrian paths; the markings for crossings; wheelchair access; and there is also two speed humps in front of the 6,400 square foot building. Those details are present.

V. Weeks – And where are the front of the buildings?

R. Stanley – All four sides.

V. Weeks – No, where is the front of the building? What is the orientation of the building?

R. Larson? – The larger building; the 12,000 square foot building will be facing towards the highway.

V. Weeks – And the other one?

R. Stanley – The other one will be facing in more.. I'm sorry.

R. Larson – The 12,000 square foot building or 12,000 plus building will be facing towards the highway; the other building will be facing in more towards the center; but there will be doors on both sides. It will be finished all the way around on both sides.

On May 1<sup>st</sup> last year or two years ago; when we had our workshop; I presented those drawings showing conceptual of the elevations of the buildings. The doors may move a little bit; depending on the tenants. If we get one tenant; versus four tenants; that could change exactly where the doors are located.

T. Kanakos – The buildings themselves on all four sides are going to look like the front?

R. Larson – Correct.

T. Kanakos – That is what we agreed on. I just wanted to make sure because I don't see any pictures of anything.

R. Larson – Is there a note on there? I think there is a note on there.

R. Stanley – Major site plan.

R. Greig – I forgot to give my name before. I am Dick Greig and I live on Union Street. I have another question. Vehicular; egress and exit. It is already awkward at that shopping center now that two roads go by it. Have you done anything to address that issue?

R. Stanley? – Well, one thing that we have done is; per the request of the town; call for more stop signs off of route 16 as entering the complex. There will also be stop signs at the other access point. All of the traffic counts were for complete build out; everything has been designed per those limits; and were approved and looked at by Del Dot.

R. Greig – Going back into my memory again; One of the other issues was landscape. The shopping center itself is pretty barren. Have you looked at that?

R. Stanley – Interior?

R. Larson – We have discussed that great length over the last couple of years. The landscaping plan; the landscaping has been enhanced. There is a plan. We have had many discussions about that; and as we mentioned before we are also irrigating entrance to entrance; so that should suffice; I believe, based on our discussions.

V. Weeks – The entrance off of Route 5, down around the corner to the entrance off of Route 16.

R. Larson – That is correct.

V. Weeks – Any other questions Richard?

R. Greig – No, not right now.

L. Frey – At the last meeting you said; the monument sign would not be enlarged in height or width. You are going to have retail stores there; are you going to make the existing signs there smaller; how are you going to accomplish that?

R. Larson – Well, there are several options; one is to do that if the monument sign....if we were asked to have that enlarged; that would be a separate application for the variance; which I don't see that happening unless there is compelling reason for that. We have no intention of that now. We can make the sign panels smaller to accommodate more sign. Which; we have done several times. BeeBee is on one of the signs right now. So what we have done is; split a sign; a panel might have two tenants on there depending on the size of the tenant.

V. Weeks – The other thing is I don't think we've seen; if I'm not mistaken; we need to see the design and the materials that the signs that will be going on the building; the size of it. Isn't there a limit to the size that they can put up; and how much square footage and so on? That has not come to us.

R. Larson – Isn't that something we would address when we get permits in that part of your sign ordinance? It's addressed at that time?

V. Weeks – Our ordinance requires that we see that.

Bob Kerr – Cabe Associates. I'll look to Robin to see if I can get an agreement with this. Typically at Planning & Zoning the free standing signs; the monument sign; a ground level sign; is something that is dealt with. Signs on the building are more or less handled by Robin when they come in. He looks at the sign; verifies that it meets the code and moves forward without it coming back to this body. Only the signs not attached to the building are typically reviewed by Planning and Zoning.

V. Weeks – The ordinance says location design and size of all signs and lighting facilities; page 58. I am not trying to be a stickler and I things have been done different ways in the past. Some of that I would like to correct and I would like to know where the signs are going to be; what they are made of; and just so we know. The same with the lighting facilities; it says the location design and size of all the lighting as a requirement.

Mary Shrider-Fox – For the record; I just want to comment quickly on that. I agree with what Bob said; and I understand you just read a portion of the ordinance to us. At this point in time; the applicant has testified that they don't know who the tenants will be, therefore, they don't know which signs will be going up on the building. Am I correct in saying that?

R. Larson – Correct.

Mary Shrider-Fox – So the intent of that is; you guys get to approve and get to look at whatever they have right now. They can't tell you what kind of signs will be going on the buildings; maybe signs will never go on the building if they don't get any tenants. I hope that's not the case; but in theory that could happen so at this point in time if they have given you the information about the existing signs; what they are going to use; that is all that they can really give you. If we are asking them for every piece of information about the possible signs that would go up on the building; I think we are asking them to make up something about the future that they don't know yet. Do you understand what I'm saying?

V. Weeks – I understand but there are other times; for example; when the sausage factory came before us and when Richard Ashby on the corner came before us; they presented the size of the signs even though they had not rented out the place. They put up what kind it was; the size; the area; the signs would be in. I'm skittish; no reflection on you, but; we lost a clubhouse and a pool over at Shipbuilders because it said for future development. It didn't say; as clubhouse and pool. Everybody just assumed it was that and then they used it for; watchamacallit. I just want to make sure that everything is down as tight as we can get it. I understand where you are coming from that we don't know what stores are going in or anything. They didn't know at these two places either. But yet they had the area marked and lighting that was going to be over; it was shown. I am not asking for something that two other commercial places that we've seen; did.

Mary Shrider-Fox – Bob, did you have; or did you participate in that particular situation; because I'm not aware of it because I wasn't here.

B. Kerr – Yes, they came in and I did not recall until you reminded me. With regard as to how they were going to do their signs. That was the applicant was dictating to

the people moving in there; that this will be your sign. There is nothing in the ordinance; to my knowledge; that says that you can require them to use that sign if somebody wanted to come back and put a different sign up there; they would have to go through the same process. Going to Robin and seeing if it's ok. Typically in a commercial operation; not necessarily in this town; but throughout the industry; many times the person doing the leasing has a standard sign they want to put up. That's part of the lease. Food Lion has; Food Lion. They're not going to use somebody else's sign for their facility. At that time they have to come in and meet the square footage; the lighting requirements; and all of those types of things. Often times it's done when they come in for a permit for a sign. Am I correct, Robin? He is nodding his head yes. V. Weeks – However, there are many times in Planning; Camden is a good example; Camden, Delaware. People who are going to be occupying those buildings come in and they have a variety of signs they are going to use or a variety of colors schemes. Just to make sure that we don't have something really obnoxious; that's a gateway corner into the town. God knows, it's not the most beautiful corner in the town; but they're working hard to improve it which we appreciate. We just want to make sure that; somebody like Dunkin Donuts or Baskin Robbins doesn't come in and put up a huge revolving sign.

B. Kerr – If the sign meets the ordinance; then yes they could put up a revolving sign. I don't think revolving signs are allowed; I know that was just an example. It comes down to that it must meet the ordinance; when they come in for their permit.

T. Kanakos – You had mentioned; Mrs. Weeks that we don't know what the signs would look like. The signs that are already established in the shopping center now; are there guide lines? They only have to meet the guidelines of the town; or does the developer have guidelines as far as what it looks like? Over here at the sausage factory; scrapple factory; all the signs are the same. It's my understanding in talking with the owner; he put that in the lease; you must follow this standard sign. So there's no problem then whatever sign they want; it all meets the same...but it's in their lease. He's requiring it.

R. Larson – Let me first address; there is a sign ordinance, typically. I assume there is one in this town. So any applicant will have to conform to the ordinance. I can't tell you; there's going to be one sign on the building or six or whatever depending on the amount of tenants. We do require channel letters; I did make an exception for Bee Bee Hospital; because if you look at the wording on their sign you couldn't do that with channel letters. They have the doctors' names on there and that just couldn't be done. Food Lion; there was an exception; they have channel letters but their logo is a little bit different. So, we have to be flexible for the most part. We've required channel letters on all the signs in the center. We're not going to allow signs that are totally different from what is there now. If Dunkin Donuts comes; and I'm not saying they are; but if they come and they have a logo they work with; for me to get them as a tenant, I have to work with them. As long as they're within the ordinance; I can't necessarily stop them from putting the kind of sign they would want to put up there as long as it fits in the ordinance. We encourage the tenants to do channel letter signs. Which I think probably almost all of them are.

T. Kanakos – What are channel signs?

R. Larson – Individual letters as apposed to just a box with vinyl on it and lights inside of it. Channel letters are actually individual letters located on a channel or a raceway. Happy Harry's for instance; has that.

V. Weeks – Another thing I wanted to ask you about the lighting. I remember Mr. Kerr was concerned; and we agreed with him; are there going to be timers on the lighting?

R. Larson – There will probably be photo sensors and timers. Typically we have both. There are timers on the lighting now. If a tenant takes one whole building; the timers will be tied to their building and their hours etc.

V. Weeks – I remember Bob that you had a concern about that. Are you satisfied with their lighting plans with timers?

Bob Kerr – Yes.

V. Weeks – Ok. Are there any other questions?

L. Frey – Yes, I do. This is for Robin. What kind of sign is that on Mulberry St.; on the corner; that revolving moving sign? What is that?

R. Davis – There is no revolving sign. The sign doesn't move, it is just the lights. It is LED lighting is what they call it.

L. Frey – That is allowed in the town?

R. Davis – Yes. Rogers' sign has it on theirs'; the Fire Department has it on theirs.

V. Weeks – Is it allowed by the ordinance?

R. Davis – Yes, as far as I know because they were allowed to do it. Lighting I mean.

T. Kanakos – Is it an exception to the ordinance?

R. Davis – No, not an exception. It talks about flashing, no flashing lights.

V. Weeks – That's not considered flashing?

R. Davis – No. It talks about so many seconds. If it doesn't flick off and on for more than a second; I think is what it is.

L. Frey – As far as maintenance of your property; on the pole lights going out by the main entrance by County Bank; you have some wires, I don't know if they're live or not. The wires are hanging off the poles. If a little kid comes along and pulls a wire and something happens.

R. Larson – Is it on our side, or the County Bank's side?

L. Frey – Your side.

R. Larson – Ok, we'll take a look at it.

V. Weeks – Are these buildings going to have pitched roofs? That's what you said.

R. Larson – Yes.

V. Weeks – You'll only be using the first floor?

R. Larson – I promise you; we will only be using the first floor.

V. Weeks – Because you don't have enough parking. That is what I wanted to ask you. All of a sudden on these and I didn't remember that from preliminary. We forgave you forty parking spots but you're still short thirteen and you say you have an agreement with the people from County Bank for fourteen? That is somewhere on here; I saw it; where did I see it? This was not easy to read, gentlemen.

R. Larson – There is a cross access. Not cross access, but shared parking agreement with the properties to the north.

V. Weeks – Where is it?

R. Larson – Properties to the north.

V. Weeks – Behind the Food Lion.

R. Larson – Yes, there is a shared parking agreement with the properties to the north or behind Food Lion. As well, which doesn't come into play; those aren't the ones that are being counted. That is just in addition to the parking that has already been approved and noted on the plans.

V. Weeks – No, I think those...you know I sat and counted all those parking spots. I'm sure that somewhere we came up like thirteen short.

R. Larson – There is 338 on A, 62 on B, 40 were waived by the Planning and Zoning Commission on A and one was waived by planning commission parcel B.

V. Weeks – No twelve parking spaces....Right, because when I counted the parking spaces on A, not counting the ones that are shared; it came up to 325.

R. Larson – There is 338.

V. Weeks- I wonder where I'm missing some. Can you approach, please? I counted these, I counted these, these each have 27, these each have 27, these each have 27, these each have 23, and I counted those; I think. Yes and I added them all up and they came to 325. Where did I miss some? I did. Yes. No those are a separate parcel. No, I'm doing parcel A. That is 14. 27; 27; 27; times 6... 14; 23.....Bob rather than us doing this now; we'll just go with it and you will double check that for us, somebody? So we don't hold up the evening on that.

Ted Kanakos – What happens if we find out they are short some spaces? Have we already approved this; this evening? Or is this going to be ....

V. Weeks – No, contingent upon it.

T. Kanakos – Contingent upon them finding the space?

Mary Shrider-Fox – They represented to you that there are certain group spaces. You are approving the plan with representation contains; what was it 338?

R. Larson – It was 338 on A; 62 on B.

Mary Shrider-Fox – Ok, so they are certifying to you that is what exists on the plan and if you choose to check it later and if you come up with a different count and need to talk to them about that; that's fine. Their plan is only approved if it's 338 on parcel A; and 62 on parcel B.

V. Weeks – What I want to know, does this 338 include the 12 on former parcel A? Does it include those 12 that you have an agreement with? So those 12 are not part of this plan?

R. Stanley – That is part of the easement; part of the easement as entered through the previous owners and also in the office survey.

V. Weeks – Please make sure that those are not part of the 338. So if you could double check that, Bob; if I'm wrong; then duh on me. Thank you. The other thing I'm concerned about; and this is to the attorney please. These are two different parcels; it is Parcel A; and Parcel B. I am concerned that it's all on one site plan map; when parcel B could easily be sold off. I would like to see these registered with two different; do they need to be registered with two different...

R. Larson – They are two different tax parcels now.

V. Weeks – Do they need to be registered or recorded on two different...or can you do it this way where it's all on one.



Mary Shrider-Fox – Yes, they can do it on one drawing. For projects where you are using multiple parcels for a project; I don't think that that's an unusual situation for a site plan; an entire project. On one drawing that multiple parcels might be included.

V. Weeks – Where I come from they were separate when they were recorded.

B. Kerr - If I may add; the only place that this is; "recorded" will be in the town office and Robin will place a copy of the site plan in the folder for each parcel. Essentially, it's all there in two places. He just files it in two places. Just to make sure that you're clear; this drawing will now be recorded in the office of Recorder of Deeds. Only when there are property lines involved or sub division does it go there; typically.

V. Weeks – Ok, thank-you. Lights; major signs; irrigation system; is there anything else that anybody has?

R. Greig – Yes, I do. When I asked you before about traffic flow; egress; exit; and so forth; Parcel B. The traffic flow in the shopping center is pretty awkward sometimes. Right around that area Parcel B. What are you looking at in terms of making sure the flow is good? Because if that became; say a fast food place; there would be tremendous amount of vehicular traffic in that area.

R. Stanley – We have stopped signs placed where necessary and where logic dictates. I don't know what else can be done; the traffic flow pattern looks fairly simple. They're just connected from one drive to the other where possible. I really don't know how it can be improved in that same area.

R. Larson – There is curbing around the whole site there on Parcel B to control that.

R. Stanley – Also there are two speed bumps that was mentioned earlier; just to the outside of the 6400 square foot building.

? – During the concept plan reviewed back in 2006; I think, it was proposed that two buildings were going to be there. That is when they came in with a drive through. The traffic pattern now has an in and out on both sides. The original one showed a double; well maybe not even a double; going on one side and actually has two in's and one out. There were discussions many times when they came back three or four times with changes for this building with how the best way to do the traffic pattern. I think this is ending up what the consensus was to do it to try to get the most people coming in and out the same time. So you're not all jammed up in there; where everybody coming out in one spot; and people passing trying to go in; a little further down.

V. Weeks – On this plan, I noticed that you have speed bumps along the Rt. 5 side of the building on A. Do you see the proposed speed bumps?

R. Stanley – Yes. That is what I was speaking about. Will there be any landscaping between that and the parking?

R. Larson – Between the speed bumps?

V. Weeks – Well, between the roadway there that you have speed bumps on and the parking.

R. Larson – No. Those are speed bumps and curb stops or tire stops.

V. Weeks – The loading dock for this building is on the side there?

R. Larson – Yes.

V. Weeks – Ok. Bob, do you feel that the loading dock on the single story retail; the 2000 is large enough; it 12 by 40 feet?

B. Kerr – Yes.

V. Weeks – There is enough room to get in and out?

B. Kerr – Yes.

V. Weeks – Ok. It seems tight to me for getting out.

B. Kerr – It is somewhat tight but we were also told at the preliminary when you gave approval that the deliveries would typically be such as a UPS truck. So it's not a tractor trailer making the deliveries, it's less than that.

V. Weeks – Promising no tractor trailers there?

B. Kerr – I don't think you can... But the majority of the traffic would be less.

V. Weeks – If they present it Bob; that's what it is.

R. Larson? – I can't promise you that I think that space will accommodate tractor trailers; what we were saying that the majority of the deliveries; we don't envision them as being tractor trailers.

B. Kerr – It is not large enough for a tractor trailer. But it was given preliminary approval by this commission with that loading dock.

V. Weeks – Right because they had presented that there would be no tractor trailers.

B. Kerr – No, they presented that the majority of the deliveries would not be by tractor trailers. It would be by UPS type trucks; they did not... without going back and checking minutes word by word; I don't believe they said there would be absolutely no tractor trailers.

R. Larson – I think we said box trucks.

B. Kerr – The typical small delivery truck or van not a tractor trailer. Probably; when they get initial stock; in these stores; that may come by tractor trailer.

T. Kanakos – Excuse me; what happens if they don't know who their tenants are? You said before; what happens if one fellow takes the whole store? His goods could show up in tractor trailers on a regular basis. They don't know their tenants yet. How could they know how they're going to have their goods delivered? If you're going to put extra doors because you don't know what the stores are going to look like; you don't know what your tenants are going to be. There are certain things that simply come in on tractor trailers; Dollar Store brings in stuff on tractor trailers. Domino's Pizza brings all their stuff in on tractor trailers. There are a lot of tractor trailers. I'm not saying it's going to be a major inconvenience; that it's going to be everyday. There saying box; van; UPS; at best... at worst it could be a store that has two trailers; three trailers; four trailers a week. You don't know who's going to be in there. If some body is big enough to take 1200 square feet or 6000 or whatever; furniture store; things like that. If they open furniture store here, you're going to see tractor trailers. You're not going to see UPS trucks delivering couches. We agreed based on what they said; but this appears to be extremely nebulous at best. We say ok, they say now it is tractor trailers.

V. Weeks – Does the loading dock on the building that's 6000 square feet; how is the traffic flow for that loading dock? They come in through the parking lot and pull into the side of the building. Then where does the truck go? Is there enough room for it to make it around over those speed bumps?

R. Stanley? – Yes. It's also protected by proposed curbing which is cutting off traffic flow from one of the drive isles.

V. Weeks – Yes. I like that a lot. I just want to make sure there is enough room for it to turn the corner.

R. Larson – These are loading areas; not loading docks. It's just a drop area. There is not actually a dock there.

V. Weeks – But if they bring in a tractor there; I want to know that it can get around the corner. It certainly is not going to back out; right?

R. Larson – If it won't fit then they won't bring it in. Now as far as you mentioning a tractor trailer every day or four times a week; Walgreens get one every seven to ten days. That's a busy store. Food Lion might get one two or three times a week. Obviously that's a much bigger and busier store. I can't tell you that there will never be a tractor trailer there; I can tell you that it's not going to be a routine. The building doesn't lend itself to that or the lot or the proposed tenants that would come in there wouldn't.

T. Kanakos – You are prepared to rent one entire store to one tenant.

R. Larson – Possibly.

T. Kanakos – If a furniture store decided to open up here; you would say fine. That's the first scenario for trucks. One large store bringing in large items. Furniture is the only thing I can think of right now. Appliances or things like that.

R. Larson – Typically that would be in their initial deliveries; I don't think that would be an every day thing; I don't know how often a furniture store would get deliveries.

V. Weeks – I take that road behind or in front of the single story retail that faces nine to about 25 feet; is that correct?; about ½ an inch.

R. Stanley? – Which one you mean; by the speed bumps?

V. Weeks – The tractor trailers will have to come in this way; correct? because they're not going to come in this way.

R. Stanley? – Well, I would assume that would be the route that I would take if I was driving the truck. But I'm not a professional.

V. Weeks – You have to get around this building. I just want to know if there is enough room for him to get around the corner.

T. Kanakos – Not every delivery truck is 55 feet. They have the smaller trucks also. You see smaller tractor trailers which aren't.....

V. Weeks – They're the ones backing up into the parking lot.

T. Kanakos – I mean, they bring in an appropriate truck in there. They couldn't get out or get in.

R. Stanley? – That's what they call a city truck.

T. Kanakos – Yes, a smaller truck. Probably would be what they would use based on the circumstances. That is not even up to us or you. It's who is delivering.

V. Weeks – I mean as it is; it's bad enough that you've got an exit and entrance here that's going into another parking lot. They're going to have to turn right; come back; turn left; go up...it's a very awkward flow but it was the best they could do.

G. Steele – The trucking companies know the areas. They will dispatch the trucks that will fit the area.

V. Weeks – They can get in.

G. Steele – They also want to get out.

V. Weeks – Bob, I just want to know if you think the road is wide enough to take the turn.

B. Kerr – Yes.

V. Weeks – Ok. I have to rely on you. I have no idea.

Mary Shrider-Fox – For the record; I was just reviewing the minutes from May 29<sup>th</sup> 2007. I admit quickly trying to review them again. I looked at them earlier but I'm trying to skim them with an eye for anything about trucks; and this issue. I didn't find anything.

V. Weeks – There is nothing in there about trucks. But to be honest with you; I can't remember what the drawings from May 9<sup>th</sup> 2009 look like. May 7<sup>th</sup> 2007. I don't know what those drawings looked like. I don't have them. I could have asked Robin for a copy; and I didn't. So I'm just asking Bob if he thinks this is ok.

Mary Shrider-Fox – I just wanted to place on the record that, I looked at them and couldn't find anything from the minutes at the preliminary approval that addressed this issue at all.

T. Kanakos – First time the truck gets stuck; they'll blame it on the truckers

Mary Shrider-Fox – That's right.

V. Weeks – Ok. The other thing I have that I wanted to know; we had some questions about the dumpsters. How big they were going to be; where they were located; and you were going to put in the plans what kind of dumpsters and the height of the dumpsters; so we would be sure the fencing and so on...because Bob was concerned that they might not be out of sight enough and I agreed with him. That was defiantly part of the minutes.

R. Stanley? – One thing that was added to the plan; the plan before you; not necessarily the construction plans; but here on the legal document; is that there would be no dumpsters on anything other than the pavement. I know that was a sticking point when I was going through the minutes of prior meetings. I don't remember which meeting; there were so many; that was one of the issues. That is noted on this plan.

V. Weeks – There were only two.

R. Stanley – Oh, it seem like more. There are details in the construction plans which show the encasement or area that the dumpsters will be situated; and doors; and so forth.

T. Kanakos – When we discussed dumpsters; this goes back a couple of years; two years; they were simply suppose to be the small hand ones; not the big ones that are picked up by the truck. Didn't we say that there would be a mass of small ones like we have in front of our houses?

V. Weeks – Actually they said they said that they didn't know what they would have.

T. Kanakos – Ok. I'm not sure what we're having here.

R. Larson - I remember discussing that; I don't think we ever zeroed right in on that because of the type of tenant. We designed the fence or closure to accommodate basically any size; other than a big roll off dumpster.

T. Kanakos – These will be on a cement pad?

R. Larson – Correct. Any standard size dumpster; and there was detail of that in the plans at least at one point.

V. Weeks – There is a fencing detail.

T. Kanakos – Excuse me; I haven't looked at the plans as scrupulously as our Chairwoman; but the question I have is; can garbage trucks get in and out; if trailer trucks can't? Can the garbage truck come in and go in and pull in and dump it and out of here? Is there enough room for them to turn and do their thing?

R. Larson – I think there is more than enough room for those people.

T. Kanakos – Excellent.

V. Weeks – Where are the dumpsters located for building on Parcel A? Is that in the same area as the loading area?

R. Stanley? – It's to the North West of the loading area for B. Sort of at the small end of the building.

V. Weeks – Right. That is for B; and for A?

R. Stanley? – That's A.

V. Weeks – Oh, North West of the loading area.

R. Stanley? - Yes.

V. Weeks – That's North. Ok. Those will have doors so that you can't see any of it.

R. Stanley? – For the plans; yes.

V. Weeks – Anybody else have anything? I think we put these men through enough. The only other thing I have is just because I look...on your landscaping; you said that you were going to put in either 6 or 8 trees that will look at the L that were PN. Those are important because they are 7 to 8 feet tall. Danged if I could find them on the landscaping plan.

T. Kanakos – That was the minimum size, right; 7 feet? Yes.

V. Weeks – Danged if I can find PN or CJ. Couldn't find either of those; gentlemen. That's total of 8 large trees.

R. Stanley? – I'm not sure where...

V. Weeks - I did find the CJ's, I'm sorry; but the PN's; and I think there is 8 of them or something. I found lots of PV's, but no PN's. PA's.

R. Stanley? – PA's?

V. Weeks – No, PN. I'm looking for PN. Would you have it down as... Australia Pine; 8 of them; 7 to 8 feet tall.

R. Stanley? – This plan is not the final plan for the landscaping.

V. Weeks – Oh, we don't have the final plan?

R. Stanley? – No, I don't. This is the Conservation District stamped approved.

R. Stanley? – Are you looking for PN?

V. Weeks- PN.

R. Stanley? – P as in Peter Nitrogen?

V. Weeks – Peter Nitrogen. Also on the landscaping plan; I don't know if this is important; but you have the building as being 40 feet high. So that will be corrected?

R. Larson – I'll find them; I don't know if he marked them as PA's instead of PN's or something, I'm not sure. There is a PA, but there's quite of few of them.

T. Kanakos – PI; Poison Ivy; no? Thank you.

V. Weeks – I mean that's a lot of trees. We want the place to look nice. We want to know where they are going.

R. Stanley – The landscape architect has gone over the plans; so at least on the list; they won't be on the plan. That looks like either a typo or maybe problems with the computer. I doubt they would be over by the Happy Harry's; because that was the scope of our work.

B. Kerr – If I remember correctly; the original landscape did show the entire property and there were some changes being made over there. You were going to add some trees; and that might be where the Pines would be over there. What I'm saying is that

these two sheets....Excuse me; this sheet I believe was full size of the entire property originally. This really hasn't change from that. It's possible that there were trees shown behind Happy Harry's; and this plant list just hasn't been up-dated. I can't speak to what happened; but it's quite possible.

V. Weeks – I'd rather see 8 more trees around this area. So you will make sure 8 trees are added to this area? 8 of those, PN's?

R. Larson – Unless we already put them behind the center.

V. Weeks – We're not getting good plans at this meeting then.

R. Larson – Well; I think you might be. We're not sure about that, I mean we have added a lot of trees behind the Happy Harry's section. The Australian Pines over the last year or two.

V. Weeks – The landscaping has certainly improved out there.

T. Kanakos – You put the fence behind the yews.

R. Larson – Right. We were looking at landscaping but we couldn't fit that so we put the fence there. We have added trees; my explanation; I think that maybe that was what the PN's were. That plan was two years old; I guess; originally.

L. Frey – That is where the three dead trees are.

V. Weeks – Yes, but this is 8 trees.

L. Frey – There are other trees behind there; Ginny; but 3 of them are dead. They would have to be replaced; if that's what their talking about the PN's.

R. Larson – If there are dead trees back there; they are going to be replaced.

L. Frey – They're brown.

R. Davis – They're back along Happy Harry's.

V. Weeks – Ok; that's where they are?

R. Davis – They're 5 and 3.

V. Weeks – Alright.

R. Larson – We knew there were 3 dead ones.

L. Frey – There are 3 dead ones; they're nice and brown.

R. Larson – Ok; were they there today?

L. Frey – Today! Yes.

R. Larson – Ok; because I went by there; I didn't notice them. In fact; we have talked to Robin about that; and we have contracted the contractor to come and change them out.

V. Weeks – Does anybody have anything else? No? Ok, thank you gentlemen. Any discussion; council? There being none; I ask for a motion.

T. Kanakos – I make a motion that we approve the final site plan for Parcel A & B as submitted with stipulations. Parcel A. I make a motion that we approve the final site plan for Parcel A; with the stipulations that the comments have to be followed up by Robin will be incorporated; parking where applicable; dead trees; ...

V. Weeks – Oh, the other thing is; they promised in the minutes that they would get the dumpsters off the grassy area behind Sterling; and so on and enclose them in fencing. That has not been done.

R. Larson – When I went by; I did notice one is on grass now and the other one is on a little pad that; I guess Subway or somebody put out there. I don't remember; if we said that we would enclose them; we will. I don't remember if we said that or not.

R. Davis – I don't remember that either; I know we were talking about putting them on a pad.

R. Larson – Right; or on parking spaces.

V. Weeks – If it's not in these minutes; it was in the plan. I'm not sure if it's in these minutes. Do you want to give me a minute?

R. Larson – We did talk about enclosures for the new buildings; I remember that.

V. Weeks – It seems silly that absolutely the most visible dumpsters in the whole place would not be enclosed.

R. Larson – If we said we would; we will. I don't remember. I just don't remember that.

Mary Shrider-Fox – For the record. I'm checking the minutes from that meeting. I didn't have the benefit of having been there; so I have no recall of what happened except for what I'm reading. With respect to the motion that was made for approval of Parcel A; the motion included a specification that not dumpster should be on grassy open areas. So, that is part of the motion that was made in past with respect to the dumpsters. However; having said that, there was some discussion earlier on that was no specifically part of the motion. Michael Filicko questioned; "will the dumpsters be fenced in so they can not be seen". This is on page four of the minutes. Ralph Larson answered, "Yeah, we'll get to that so when we come back we would like to make that change on the final plan regarding the parking. There was more discussion about that. That's where I'm seeing that there was some discussion about dumpsters being fenced in. However, I do need to point out, that it was not part of the motion and the approval of the preliminary site plan. It was just the grassy; no grassy areas that was part of the approval.

T. Kanakos – Can we add the fencing now?

V. Weeks – I'm not sure you can.

R. Larson - I believe that discussion about the dumpsters being fenced in had to do with the two new buildings.

V. Weeks – Are you willing to fence in the others?

R. Larson – Ok, where would I...how would I do that. I mean where would I put that?

V. Weeks – Well, you have them on pads and off the grassy area.

R. Larson – If I put fences up; I would have to look at how we could do that. If there is a way we could do it; that makes sense; and it's economical; and the tenants will abide by it; because I go behind Happy Harry's and the other tenants; the trucks come in and they move the dumpsters wherever they want to. The tenants have them moved closer to the building; they don't want to walk out too far to get to the dumpsters. It's a constant battle.

V. Weeks – I'm just talking about the ones by Food Lion that you see as you enter into the place.

R. Larson – You're talking about Sterling Optical and Wings to Go?

V. Weeks - The nail place; Wings to Go. They are just hanging out there.

R. Larson – Ok, now do I need to come back for a site plan approval to locate an enclosure? Usually there's a process to do that.

R. Davis - We have to go back because those three little pad sites weren't part of the original, they were added later. Sterling Optical was added later. I don't think originally they were there.

R. Larson – You mean the buildings?

R. Davis – Yes, the buildings.

R. Larson – I'm not sure.

R. Davis – Ok. Because for some reason that was a secondary thing and to me if it wasn't added then...

V. Weeks – These dumpsters are on the reserved for future expansion of Food Lion.

R. Davis – Yes. Now they are 3 different tenant buildings. So, if it wasn't done back then, I don't know....

V. Weeks – It was something we discussed at the preliminary.

R. Davis – But if it wasn't part of the approval process; is it something you can require them to do?

T. Kanakos – If Food Lion expands; that will change where these dumpsters are. Then do we have the ability to.....

R. Davis – Food Lion probably will not expand; but it was in case they did need a bigger store. Now that they have the three smaller stores; I'm pretty sure they're not going to kick those three out and put Food Lion there.

T. Kanakos – I thought the expansion was for them to build larger behind it; behind the three stores. This is the future expansion; these three stores.

V. Weeks – On the map it's there.

R. Davis – Oh, behind the three stores.

T. Kanakos – The dumpsters are here. If they decide to expand; they're going to have to move the dumpsters somewhere. At that time then we will be able to dictate literally the proper sitting for dumpsters on a pad and fence?

R. Davis – Yes, at that time you can say, "These dumpsters now need to be on pad and be fenced in".

T. Kanakos – But as it stands now, they can just stay there? We can only hope that the one that is on the grass will be moved as agreed to.

V. Weeks – They agreed to move them in when we did this.

Mary Shrider-Fox – For the record. I'm reviewing the minutes again and on page 5 there was some discussion; Sterling Optical caught my eye. So this is the discussion about Sterling Optical. Virginia Weeks; Mr. Kerr; "I would also like to request the dumpsters be removed from the grassy area next to Food Lion; they should be behind the store". Bob Kerr; "are those actually by Sterling Optical"? Virginia Weeks; "they are somewhere there but they don't belong on the grass." Ralph Larson, "Ok, well that's a management issue, we'll deal with that". Virginia Weeks, "Thank you".

R. Larson – To carry that on further, I think Mr. Brady had pointed out that we can put the dumpsters on the parking lot, on the asphalt and parking spaces; because there is not an ordinance prohibiting.

V. Weeks – I'm not sure Mr. Brady was correct on that.

R. Larson – Well, as a matter of record from that meeting; so...you know.

V. Weeks – That's ok, I know. I can't imagine that you can have a parking area then fill the parking spaces up with immovable objects and take parking away and that that's alright. I find that very hard to believe. But that's my personal opinion and Mr. Brady is no longer here. Will you please try and do something about those dumpsters?



R. Larson – I will. I know there has been a pad added back there for; I guess Wings to Go. There are two dumpsters there. When I went by tonight, one dumpster was on grass; which I didn't realize; and that might be Sterling Optical's. I will get that moved off the grass.

V. Weeks – Even if you just put a side fence so people coming in; the first thing they see is those silly dumpsters.

R. Larson – Ok, now if I'm going to put an enclosure somewhere back there; do I need site plan; do I need to come up with a new site plan? Typically you have to do that.

V. Weeks – All I'm asking for is a fence to hide the dumpsters. He doesn't need to come back with site plan for a fence.

R. Larson – Is there a fire lane back there, Bob? Or is there any issue with that? I'm not sure.

B. Kerr – I would assume there is a fire lane completely around Food Lion.

T. Kanakos – That's a pretty wide spot there.

V. Weeks – This is just a little fence behind Sterling so you don't see the dumpsters.

Mary Shrider-Fox – When it comes to having a fire lane located anywhere near what you are doing; it's never just a little matter. I can say that. My recent experience moving into my own new building; signs; fire lanes; everything; Ocean View. Put that on the record. It's probably not a simple matter of throwing something up; particularly there might be a fire lane located close by; according to what Bob just said.

B. Kerr – Correct.

T. Kanakos – I have just a quick question. I am looking at this future Food Lion expansion. Is that dedicated to Food Lion or can other stores be put in there by the developer?

R. Larson - No the way that's typically structured on a lease is; those other three stores there are on short term leases. If Food Lion decides they want to expand; they have to wait until those short term leases expire and then they can take the front and build all the way further back.

T. Kanakos – Can they just add on the back?

R. Larson – They could if they chose to.

V. Weeks – If they can build there, certainly they can put a fence up to hide some dumpsters.

R. Larson – The original question was...

B. Kerr – If they built there, they would have come back in for site plan approval for that 7,000 square feet because that changes parking. It changes storm water and it changes Fire Marshall approval.

V. Weeks – All I want is a little fence back there. About 12 feet that can hide the dumpsters from the view when you drive into the place.

G. Steele – Mr. Larson. Does it say that you will work with Robin if you can put up a fence; do the best you can to hide those dumpsters?

R. Larson – I will do the best I can. The concern is that an enclosure becomes a permanent structure. So I have to be careful how we do that; it's not just the town; it's the Fire Marshall; etc. I will work with Robin to do what I can do to dress that up.

Number one to get them off the grass.

V. Weeks – Not looking for an enclosure; just a fenced area.

R. Larson – I will do that.

Mary Shrider-Fox – For the record I would like to point out that the applicant has voluntarily agreed to consider an additional option. This is something that is above and beyond what was at the preliminary site plan approval. I just want to make that clear on the record this something that he voluntarily said that he would consider and explore. This is not anything that is binding.

R. Larson – So, in good faith here, we are 47 parking spaces short and you'll be ok with that?

V. Weeks – What? Not in parking spaces, no! (laughter)

Mary Shrider-Fox – For the record, that was a joke everyone!

T. Kanakos – I make a motion that we approve the final site plan for Parcel A as presented with Robin addressing the stipulations. Parking; dead trees; dumpsters on a pad; dumpster off the grass.

L. Frey – Only signs that have been approved; no paper or cloth signs hanging on the building.

T. Kanakos – That's in our ordinances anyway.

L. Frey – But it happens over there.

T. Kanakos – Well, we have to enforce the ordinances. Saying it now means nothing; you have to enforce the ordinances. That's not part of the motion. Ok, I'm going all over again. I'm going to make the motion that we approval the final site plan for Parcel A as presented with Robin addressing stipulations regarding; parking; dead trees behind Happy Harry's; getting the dumpsters moved off the grass.

? – How many parking spaces are there suppose to be? 328?

V. Weeks – 338 not including the 12 that they haven't agreed with.

? – Parking that has conformed to the plan? To the numbers.

T. Kanakos – The parking will conform to the plan.

V. Week – It does not include the 12 that are noted on the plan.

Mary Shrider-Fox – The motion that is being made is to approve the final site plan for Parcel A; with the condition that Robin double check the number of parking spaces to verify that they are what is listed on the plan; which is 338 for Parcel A. He is going to verify that there actually are 338 parking spaces on the plan.

V. Weeks – And they are exclusive of the 12 that they have agreement with. Which is what they testified to this evening.

Mary Shrider-Fox – Correct.

V. Weeks – Ok, because that's also on the plan.

Mary Shrider-Fox – I think that complicates the motion even more. Let's start over again.

Mary Shrider-Fox – The motion that's being made is to approve the final site plan for Parcel A; contingent upon Robin verifying that there are 338 parking spaces as represented on the plan. He is going to verify that their actually there. It will not include the 12 parking spaces that are shared by an easement agreement. He is also going to make sure that the 3 dead trees get addressed. He is also going to make sure that the dumpster is moved from the grassy area behind Happy Harry's. Behind Sterling Optical. I think that's as close as we're going to get.

V. Weeks – Thank you.

Mary Shrider-Fox – Is that the motion?  
T. Kanakos – That is the motion. Thank you.  
Mary Shrider-Fox – Mr. Kanakos; will you say so moved; please.  
T. Kanakos – So moved.  
V. Weeks – May I have a second, please.  
G. Steele – I second.  
V. Weeks – Voice vote.  
Mary Shrider-Fox – I was going to say roll call vote, please.  
V. Weeks – Roll call vote. Mr. Kanakos?  
T. Kanakos – Yes.  
V. Weeks – Mr. Perkins?  
A. Perkins – Yes.  
V. Weeks – Mr. Kost?  
E. Kost – Yes.  
V. Weeks – Mrs. Frey?  
L. Frey – Yes.  
V. Weeks – Mr. Steele?  
G. Steel – Yes.  
V. Weeks – Mr. Greig?  
R. Greig – No.  
V. Weeks – And the chair votes, yes. Parcel A. is done.

V. Weeks – Next point of business is Parcel B.

**Final Site Plan Approval – Commercial/Retail Site Plan**

The applicant, Larson Engineering, is requesting final site plan approval for a one Story 6,000...we just approved Parcel A so ....

T. Kanakos – That should be Parcel B.  
V. Weeks – We just approved Parcel A, but I need to correct what I read into the minutes earlier. I read Parcel B; that was what we were considering; not Parcel A. I read the first part of the business thing; right up here; and that was Parcel B nor Parcel A. There is a correction.  
T. Kanakos – Do you want to amend our motion?  
Mary Shrider-Fox – Ok, that's fine go ahead correct the record. As long as the record and the minutes will reveal what you did and what you meant to do.  
V. Weeks – I should have read; that the first order of business was:

**Final Site Plan Approval – Commercial/Retail Site Plan**

The applicant, Larson Engineering, is requesting final site plan approval for a one Story 6,429 square foot retail building on 10.5 acres in the Milton Park Center Located on the corner of RT #16 & RT #5. The property is zoned C1 (Commercial) and is further identified by Sussex County Tax Map and Parcel #2.35-14.15-68.01.

V. Weeks – We are not considering Parcel B.

### **Final Site Plan Approval - Commercial/Retail Site Plan**

The applicant, Larson Engineering, is requesting final site plan approval for a one story 12,457 square foot retail building on 1.32 acres in the Milton Park Center located at the corner of RT#16 and RT#5. The property is zoned C1 (Commercial) and is further identified by Sussex County Tax Map and Parcel #2.35-14.15-68.00.

V. Weeks – Does anybody have any comments on Parcel B? I mean we pretty much discussed everything. No?

T. Kanakos – No.

V. Weeks – May I have a motion?

Mary Shrider-Fox – May pause for just one moment? I want to hear from Bob for a second.

B. Kerr – My concern as you were voting on the other motion; was that in the preliminary approval; the same numbers...I'm sorry the number of 338 parking spaces was provided. There was no discussion about 12 parking spaces. When I did the count; I believe there were 338 spaces. I did not subtract 12; I did not add 12; I did not consider 12. I think when we go back and do the count; we are going to come up 12 short. If what you're saying is; there needs to be 350 on Parcel A in order for this motion to have passed. That would be, I believe, a change from what was approved at the preliminary.

V. Weeks – Exactly. When we did the preliminary; he came in with a map that showed parking around the pond; behind Happy Harry's and a lot of places there was no mention of 12 shared parking spots on the preliminary plan. That's why I wanted it in the record tonight; that these 12 were not part of the 338 we approved.

Mary Shrider-Fox – I'm a little bit at a loss because I was not there and was not part of the discussion. It was my understanding there were more meetings than just the one that I have the minutes for; about some of this.

V. Weeks – We had two meetings; just so you know Mary. We had a conceptual plan and preliminary.

R. Larson – We also had a workshop. That is where we talked a lot about parking and I don't remember what numbers we were discussing.

V. Weeks – And then when they presented; if I'm not mistaking; was as I said; was that there was a lot of parking still showing around the pond. The storm water management pond in the back and behind Happy Harry's. We forgave them 40 parking spots. Those 12 were never entered in it. They were never shown on the preliminary plan and they weren't part of it.

Mary Shrider-Fox – I think we need to verify whether or not those 12 were shown on the preliminary plan. I think we need to verify that in order to determine whether or not the condition placed that those 12 can not be included in the count. If that is an appropriate condition at this stage of the game; at final site plan. Robin, do you have a copy of the preliminary plan that was approved? He is nodding his head yes. I think we will take a brief pause to see if we can have Robin verify whether or not those 12 are included.

B. Kerr – If I could add just one thing; some of the spaces that were forgiven; I believe there was discussion whether you would rather have the correct number of

parking spaces; or more landscaping. In order to get the additional parking spaces; they would be taking out the landscaping behind Happy Harry's. Essentially any landscaping back there would be removed. One of the things that you desired was the landscaping. That was part of the reason for doing that.

V. Weeks – If I remember correctly; we agreed that they could remove the parking around the storm water management pond in the back and behind Happy Harry's.

B. Kerr – No, I believe where they had shown some additional parking spaces around the storm water pond.

T. Kanakos – That was extra.

B. Kerr – There is parking there now. It does not show on the site plan. There is parking in this area. It might not be stripped, presently, but there is room for parking there.

V. Weeks – We agreed in the preliminary plan that there would be no parking there. I have the minutes.

R. Larson - I think we agreed as a practicality thing; that we didn't need the parking around the pond as opposed to the grassy area that is there. I don't remember the numbers that were involved.

V. Weeks – I just don't remember those 12 parking spots being part of the preliminary. That's why I questioned.

B. Kerr – In looking at the preliminary plan; the 12 spaces between the back of the Food Lion and the adjacent Parcel B, are not shown on the preliminary. Possibly they weren't counted the first time. I can't sit here tonight and say one way or the other if there are now 338 parking spaces.

Mary Shrider-Fox – Ok, we can move on now.

V. Weeks – Ok. Alright, having read the announcement for Parcel B; does anybody have comments or anything about Parcel B which is the large free standing building? The only comment I have that I would like to remind you is; that lot itself is over 15,000 square feet; so that's ok; but fast food; it's really a difficult thing of putting fast food in there. The line between fast food; like Domino's and a restaurant; I don't know how to define as what's a restaurant and when it isn't. A restaurant requires twice the amount of parking that you have there now. So, please be careful with your clients. I just wanted to get that straight. Can I have a motion for Parcel B, Please? If there are no more comments.

T. Kanakos – I make a motion that we approve Parcel B as presented this evening.

V. Weeks – May I have a second?

A. Perkins – I would like to second Mr. Kanakos motion, please.

V. Weeks – Is there any discussion on the motion? There being none, I call for a roll call vote.

T. Kanakos – Yes.

V. Weeks – Mr. Perkins?

A. Perkins – Yes.

V. Weeks – Mr. Cost?

E. Cost – Yes.

V. Weeks – Mrs. Frey?

L. Frey – Yes.

V. Weeks – Mr. Steele?

G. Steele – Yes.

V. Weeks – Mr. Greig?

R. Greig – No.

V. Weeks – And the chair votes, yes. So you have your approval. Thank you. The only thing remaining is our:

**Proposed Historic Preservation Ordinance Review**

Discuss and forward comments on the proposed changes to the Historic Preservation Ordinance (Section 4.9) to the Town Council.

T. Kanakos – We don't need an engineer for that.

? – Mary, we approved Site A subject to 338 parking spaces not including 12. What happens if the 12 that are suppose to be included for our approval; what's going to happen? We approved something that maybe shouldn't have been approved.

Mary Shrider-Fox – That's very interesting. Robin is trying to do the count right now.

? – What happens if the count is no good? We approved something that maybe we've shouldn't have taken action.

V. Weeks – We were told we could do it on contingent that the parking is there.

Mary Shrider-Fox – One of things that the record; that we've done this evening was that we have raised the issue that this might be an issue on the record. I can't tell you that because I wasn't involved. I don't have the preliminary site plan in front of me. Every single parking space is exactly the same or in the exact same location on the final site plan; as is on the preliminary site plan. I mentioned that, because at this point, we don't know whether or not these 12 shared parking spaces that appeared for the first time as a note on the final site plan; because that note was not on the preliminary site plan. If that is included in their calculation of the required 338 that they need now and it wasn't before at the preliminary site plan approval. I can't give you a reaction on what we did; this is going to be an interesting situation on how we decide either the approval gets changed or these guys have to change their plan. I can't tell you for sure tonight.

? – What I'm actually asking is; if for some reason; whatever we did was incorrect someone is going to have to tell these folks that there is a problem and they're going to have to come back here.

Mary Shrider-Fox – Regrettable, yes that might be the situation.

? – I just want them to understand that. They're not out of the woods; maybe.

R. Larson – If I can say; the problem with that for would be; our preliminary site plan approval expires on May 29<sup>th</sup> of this month. Technically we would have had to come back tonight for an extension. What kind of problem would that cause for us?

V. Weeks – Can we vote tonight to get the count?

Mary Shrider-Fox – At this point, what it could be, is that you have gotten your final site plan approval. We are just trying to determine whether or not the condition placed on it was appropriate based on what was approved on the preliminary stage. If it was, then we are just dealing with whether or not the count of the parking spaces comes out correctly or incorrectly. That would dictate the course of action. Now, if we find that there is something inappropriate about the approval because it went above and beyond conditions that were placed at the preliminary site plan stage; then

I would argue that I don't think the applicant would have to suffer the consequence of that. Meaning the expiration of your preliminary site plan approval; you were here; you made the effort to come in within your one year period and if it's something on the Planning and Zoning side that we did incorrectly for whatever reason; then you shouldn't bear the burden of that. I think in that respect you will be fine. You are here within your one year period seeking your final; that is what you are required to do. In good faith.

R. Larson? – I'm not leaving until he counts it.

Mary Shrider-Fox – I was just going to make a suggestion that the commission can move forward with it's remaining business while Robin continues to count. You guys are certainly welcome to hang around until he is done counting.

T. Kanakos – Can you put in 6 for small cars only? Then 6 for motorcycles. The motorcycles cut 3 in half.

Mary Shrider-Fox – I actually do remember that discussion from reading the minutes; that wasn't going to be the case.

V. Weeks – The next point of business is the;

### **Proposed Historic Preservation Ordinance Review**

Discuss and forward comments on the proposed changes to the Historic Preservation Ordinance (Section 4.9) to the Town Council.

V. Weeks – Have you all read it?

? – Yes.

V. Weeks – Anybody have any comments?

T. Kanakos – I have a number of them.

V. Weeks – Did you write your comments down, Mr. Kanakos?

T. Kanakos – Yes, I made some notes. A few; but I have to read them now.

V. Weeks – Ok.

T. Kanakos – One thing that seems to pop up with all the various boards. The provisions for board members who live within 200 feet of the applicant. I'm concerned with people who sit on the Historic Preservation Board. How they can continue and are allowed to be effective. We have had a lot of problems here in the last six months with people recusing themselves. Between Casa San Francisco and Bark Avenue I'm right in the middle of them. I get all kinds of registered things. Sometimes I can say something sometimes I can't. I can't talk to my neighbors and I can't take part in this group; I'm sort of in limbo. Could we put something in there for these folks who happen to be on these commissions?

V. Weeks – I think probably the best way to handle that would be to forward a comment to the council that we would like to establish our own ethics rules. Is that not what I heard from you when we discussed this before; that if the town had it's own ethics rules; we could live by those; but since we don't have them we have to abide by the states'?

Mary Shrider-Fox – The town can pass it's own set code of ethics; that is true. Your code of ethics cannot be in contravention of state law. No ordinance; no regulation; anything that the town passes cannot be in contravention of state law. You still have to work within the confines of that. You can just better define things; not matter what

we do; we can't do something that is against what the state's statute says. As far as the Historic Preservation Ordinance; I haven't reviewed it because I'm reviewing it at the very end after everybody else comments; so that the town doesn't pay me three times to do it. As far as comments specifically about that provision; I have to say that I've held my review off because I'm waiting to see what the final product is before I make my comments.

V. Weeks – I don't believe it addresses people in here who live within 200 feet. Does it?

T. Kanakos – No, that's why I'm saying I'd like to find something which allowed the commission. Last time we had 3 or 4 people. We almost didn't have a quorum. Because 2 people had to recuse themselves; somebody was missing.

V. Weeks – I believe since this is part of the zoning ordinance; whatever refers to the zoning ordinance pertains to this.

T. Kanakos – It was also my understanding; when it comes to ethics; supposedly; Mr. Brady has said, "In good conscience, if you feel you can make an objective decision, you stay".

V. Weeks – That was Mr. Brady.

T. Kanakos – But the deal is; this is my question; regardless of the issue that comes before us; how it effects each of us individually; there is no law that says that we have to recuse ourselves. Is there?

E. Kost – The only problem you have; if you do not recuse yourself under certain conditions; you take action against what that gentlemen said. If we take illegal action; you didn't recuse; we can be sued. It's not just that you're not being allowed to speak.

T. Kanakos – Yes, but they're going to have to prove the fact that it's a self serving issue. First I'm a town resident, then I'm on the commission. These things affect us personally.

V. Weeks – Are we ok? How do we get to be ok?

R. Davis – 1; 2; 3; 4 (Laughter)

Mary Shrider-Fox – We are going to pause this discussion for a moment because Robin has his findings about counting the parking spaces. I am going to turn this over to Robin now.

V. Weeks – I just want to know where the 338 are.

R. Davis – In Parcel A. I recounted. Behind the China Wok area, there are 5; then there are 14 I think. That's 14 so that's 19. Then you have the ones over there by the expansion of Food Lion, which are 15. You have 6 lines of 28...

V. Weeks – 27.

R. Davis – 28. The reason you don't see 28 is because you look closer to 16 there is a storm line there, but there is a parking spot over top of it. So you counted 27; and that would give you 6 more. Then there are two 24's going closer to the single building. Then there's a 27 and 28.

V. Weeks – I've got 23. Ok, 24.

R. Davis – Yep, two 24's. A 27; an 8 by the building; the other side of the building you have 22; you have a 27 and then there's 4 down the side. 338.

V. Weeks – Ok, good.

Mary Shrider-Fox – Ok, so we have confirmed it? You guys are good to go?



V. Weeks – I did not count the ones by the storm drain. They did not look like parking spots.

Mary Shrider-Fox – I'm just glad I don't have to figure out the legal issue of what we do next; if it was wrong.

? – Mary, does that mean that the point not to include the 12 by easement can be struck from the approval?

Mary Shrider-Fox – Well, I don't think you need to strike it and here is the reason why. Now that we found out that those 12 weren't part of the preliminary and that we're ok; when Ginny had said something about the 12 and I made the comment; "ok we're just going to confuse it more". Sometimes we make a point of clarification; it can lead to the confusion that we just had; but the point of clarification is still ok. It wasn't an additional condition; it was just a point to clarify that those 12; and I know that's some nice words slipped in there; as far as point of clarification versus condition, but I think that gets us where we need to be and we're ok.

V. Weeks – Thank you. Bob, if you want to stay for the Historic Preservation; you are welcome to; but if you would like to go home and have a scotch and soda; you are also welcome to.

B. Kerr – I'm going home.

Mary Shrider-Fox – I have a question. Do you want me to remain for this part of the discussion? Even though, I haven't reviewed the ordinance.

V. Weeks – I think so because so legal thing may come up that you may be able to head up off so we don't look like dodoes again.

Mary Shrider-Fox – Ok.

B. Kerr- Robin and I had a little bit of discussion before this about giving you smaller copies of the construction drawings. We were doing that because so many times we hear you say; "you gave me all this paper and I'm just going to throw it away". I kind of got the feeling that we lost tonight because we didn't give you full size drawings. If you could let us know what you want; we'll provide it. One month we hear; why do we have all this paper that we have to throw away we're cutting down trees. Then tonight, it was; "why do we have these small drawings". If you could give Robin and me some guidance, we'll provide what you want.

V. Weeks – My concern was; do you see all this writing here? I actually had to get a magnifying glass to read it comfortably. A lot of these drawings in here; there important to you; but like all these construction drawings and so on; we're certainly not going to comment on that. That's strictly an engineering thing. It's probably required for us to have it and that we don't need but when we have a lot of writing and; this is awfully tiny. I don't know if anybody else found that.

R. Davis – The reason that is; it's because there is 25 or so pages there; it goes back to the same thing; of what Bob just said. Six months ago I heard, "Man my packets, what am I going to do with all this crap"? Six months prior to that I heard, "I don't have enough stuff to look at and make a decision on this". There has to be an in between. Bob looks at every one of those papers and Bob makes a comment; that's why we pay Bob to make that comment to say that all the construction drawings are up to snuff. If as a commission you feel that you still have to look at that; and feel like you have to look at it again; even though Bob has said that it looks ok; then you are going to get those papers. If you don't need those papers, that's great. That saves. It

goes to Bob; Bob sends the comment letter. Bob says it's good then we are home free. You'll get the front site, like you did. The landscaping and the lighting; yes, but you will not get the details of the construction portion.

V. Weeks – Does anybody else on the commission feel that we need the details of how the curbs are going in; and so on?

B. Kerr – I think I heard what you said; do you want only the site plan large? Or did you say you also want landscaping, lighting and sit plan large? I'm sorry? And signs. We're almost to the point where on some jobs; you get the whole package. One of the things is that we have to tell the applicant what to send us. We're trying to cut down on that. On some of them that are 25 or 30 sheets long, if it's a sub-division, you get 7 sets; Mayor and Council gets 7 sets; Robin gets a couple of sets; I get a couple sets; Mary gets a couple sets; Debbie gets a couple sets; we're talking a bunch of trees. We're just trying to determine what you would like to see.

V. Weeks – Basically Bob; going through all this stuff on the utility detail and erosion sediment control; we don't know how to evaluate those. Those we look to you to do. You know; the details.

Bob Kerr – The problem comes in trying to pull out sheets. If you want landscaping; lighting; signage sheets; then personally I'm going to tell the applicant to submit it all large.

V. Weeks – Actually I just want sheets that have a lot of writing on them to be large. I would like one; I thought this was great. Having one large one and these small ones was terrific. I just had a problem reading that. If nobody else did, I'll continue with my magnifier.

Mary Shrider-Fox – I just want to say; think what Bob is saying to all of you; It's not practical to tell the applicants to send in your packets; and they have the packets in a certain order; you've seen that with all of them. Some of them are 15 pages and they have their table of contents and they try to make this nice presentation; and for them to try and predict; if you have a lot of words on it you need to have it big; if you don't have words on it; it can be small. If it's engineering; that's just not practical to tell an applicant. Maybe we'll be leaving it for everybody to think about it. Just let Robin know.

V. Weeks – Is everybody else happy with the way it was done tonight?

L. Frey – I'm going to leave it up to you.

B. Kerr- It was said tonight that these drawing were too small. Robin made that decision and we're sorry; I'm sorry.

V. Weeks – I said I had trouble reading the small print. Does anybody else have any problems with the way it was done this evening? It's fine.

Good Night, Bob, thank you.

V. Weeks – Robin as long as we have one large site plan like we did tonight, it's fine.

E. Kost? – Robin if they want to see it before hand; the large one; you'll have it available.

R. Davis – Yes.

V. Weeks – Back to the Historical Preservation.

T. Kanakos – Can I just put in a few things; and everybody has something to say; maybe somebody could take a list of the various comments.

V. Weeks – If you just want to give Mr. Kost your notes when you're done.

T. Kanakos – In looking through these; I was a little confused on a few things; which is the norm.

E. Kost? – Hold on, go back to point one. Do want to put in something about ....

T. Kanakos – Well, I was interested in finding out; for the Historic Preservation; how they can participate more fully without compromising their own personal ethics; or whatever. This is what I'm thinking; if no one here had recuse themselves on any issue over the last year. I don't think anybody there would come to it. What we're doing is; we're not really... If Bark Avenue said, "Oh, Ted Kanakos said this or that" That's not really the issue.

E. Kost? – That's not what I'm talking about.

T. Kanakos – Why should we be more ethical than them?

E. Kost? – What I'm talking about is; I want to write something down to send somebody; what do you want to say?

T. Kanakos – Dear Bill.

E. Kost? – Make it simple.

V. Weeks – We have a problem with the recusal.

T. Kanakos – The recusal concept.

E. Kost – We would like a review of recusal.

V. Weeks – Actually I have to tell you; the Mayor; I think it was in April; assigned with Deanna Duby being in charge; a revise the ordinance committee. That might be better where that should go.

Ted Kanakos – Ok.

V. Weeks – That's not really pertinent to the Historical Preservation. They just fall into whatever else is in the zoning.

T. Kanakos – On page 4. At the very bottom in green; now what does the green; the red; the blue; what do these all mean?

V. Weeks – Up in the front it will tell you red are suggested additions to the ordinance made by the committee; green – conditions and changes approved in one of two amendments in 2007 that Ann Yarborough and Stephanie did. Blue concerns for the lawyer.

T. Kanakos – Ok. On page 4 in green; under actions; repair or replacement of existing windows and doors using the same materials; that are fine. Where are the new doors and or windows addressed?

V. Weeks – New, that just goes to the Historic District ordinance. If it's not the same; then it has to go to the Historic Preservation.

E. Kost – Hold on, I have a comment on that. This is clarification. It says to use the same materials. It use to say; the same or similar. My question goes this way; when it says; the same; they mean the exact same stuff? Let me tell you this story. I had a ninety year old house. My deck was rotten. It was made by 5 ¼ x 2" tongue and groove boards. They don't make them anymore; period. I found the last couple in a loft in a lumber yard. After that, you can't get the material. Are we saying that we are going to create a situation here where someone is going to run into that and say, "I can't get the material, what do I do next"?

R. Davis – That's how it is; that's exactly how it is. If I'm replacing my deck with materials that I can't find anymore; I have to go to the Historic Preservation and tell them that I can't find 5 ¼ x 6 ½" board anymore. I need to put the composite type that

will allow that. Then they review it. If you can find that type of material; then you come and get a building permit; you don't go to the board.

T. Kanakos – I had wood cedar shakes on the roof. I put a new roof on; but there was no way I was putting cedar shakes on. I had to go through the whole process with pictures and this and that. It worked. I didn't have \$40,000 for a cedar shake roof. I had \$8,000 but don't let that get around.

V. Weeks – These are actions that don't require review.

T. Kanakos – Ok. On page 5

E. Kost – Hold on, what was your comment on 4?

T. Kanakos – On 4; there is no comment because I was told that issue would be taken up somewhere else. On page 5, 3 A, all site plans in the Historical Overlay District being reviewed by the Planning and Zoning Commission shall be forwarded to the Historic Preservation Commission after receiving preliminary site plan approval. Can we have that after conceptual? Get them involved in the loop a little earlier?

V. Weeks – Not everybody comes in for conceptual is the problem. What this does is to avoid things like Casa Francisco coming up again. If the plans require demolition; the approval for demolition has to be approved before we see it.

T. Kanakos – That's a whole different issue. What I'm saying is, you want the Historic Overlay District; that we are going to be looking at; we want the Historic Preservation Commission to be involved after we get a preliminary site plan approval?

V. Weeks – I think so; because what happens, Ted; take the Casa Francisco thing; all we're doing is to see if that's properly and legally seated on that lot. If it has the parking it needs; if it has this; that and the other thing. Does it fit the ordinance? Then it goes to the Historic Preservation Committee and even though we said that yes it fits the ordinance; they may find something different about it. They may not like the porch; they may have them remove the porch; but we approved the footprint for the porch. They can decide the building is too big for the area. That is not in our pervue. Our pervue is just to see if that footprint fits on that land.

T. Kanakos – I know what we do and I know what they do; but here they're making a request that we send them information at a certain juncture of our performance.

R. Davis – That is currently how it is in the ordinance. It is currently that way. Once we get preliminary;

T. Kanakos – Well, I'm trying to get them in the loop a little earlier. Whoever gives us a conceptual; why can't we just pass it along to them so they will enough time to review.

R. Davis – First of all we don't always get a conceptual. The issue is you are only looking at land use stuff; they're looking at esthetics. If you're going to make them change some things around because it doesn't fit; and it's already been approved as far as the design and the look; now they're going to have to go back to them again because you're requiring changes. This way if you say this building fits on this lot the way it is because of the parking; because of the set back; then they can work with the 6,000 square foot building that you approved as far as the look. It doesn't make the applicant go back and forth several times if they go to Historic Preservation and approve an 8,000 square foot building; and the look; it comes to Planning and Zoning. Planning and Zoning says guess what; you can't have this 8,000 square foot building.

It doesn't fit. Now they redesign; they have to go back to Historic Preservation again to check the design again; then come back to you again to say it's ok to preliminary. You say the footprint or the size of the building fits; then Historic Preservation can play with the design of it. I don't want to say play with the design; but, the specs.

T. Kanakos – Ok, well then let's go on to 3 B; the very last sentence. Officers shall assist the application as much as possible with the process including the completion of all necessary applications and notify them of the meeting date and time. Can we also put in location? If we have time and date we might as well let them know that.

V. Weeks – So to 3 B; add location in the last sentence.

T. Kanakos – Going down to C; the blue area, the white and blue. The applicant shall notify all owners within 200 feet. Such notices shall be sent by certified mail; receipt requested; to property owners a minimum of 10 days prior. I would like to see that 21 days and 1,000 feet. I would like more people involved.

V. Weeks – That involves an ordinance change. That would be the pervue of the Ordinance Review Board wouldn't it? That would make it different from what the...

T. Kanakos – See my concern is that you have certain people; you have someone who is here; and there is only one person here; and the rest is open space. Then right after the open space there is 800 houses. I think that we should have a wider area of involvement in the neighborhood. 200 feet isn't very much. I'm 200 feet from Bark Avenue; I could throw a rock. What I am saying is that there are people; I would like to see a larger area addressed.

V. Weeks – I don't think 1,000 is....

T. Kanakos – Ok, 300; 400; I just put in an increase.

V. Weeks – So, 3 C changed 200 to 300. These are suggestions to the council.

T. Kanakos – Also I would like it not a minimum of 10 days; but 15 days.

V. Weeks – Ok and change 10 days to 15 days.

T. Kanakos – When Bark Avenue came up; half the people were only summer residents didn't get anything in time. I think that should that should have been sent out earlier.

V. Weeks – Not only that; all our mail goes to Wilmington to be postmarked and then sent back.

T. Kanakos – Sometimes it take a little longer and for people who are not her on a regular basis; only weekends; they can miss that one weekend.

R. Davis – We might have to look at when the applications have to be turned in; because that requires me more time to get the notices ready; and to give to the applicant. You used to be able to turn in the application in 21 days; you might have to wait now 40 days or something like that.

V. Weeks – I don't think that is addressed in here, is it?

R. Davis – No.

V. Weeks – Do you want it added; a closing date for application?

R. Davis – It is probably something that needs to be put in there. What it was in the past; we had gone by; since it was some sort of site plan. Site plans were always required 21 in advance. The Board of Adjustment; the Historic Preservation; and P & Z did it. We moved our P & Z to the previous month to give the consultants more time. We left the 21 day period for the Historic Preservation and Board of

Adjustment. That wasn't too bad; we still have time to get the 10 days and stuff like that. If we move it to 15; that date might need to be moved back.

V. Weeks – Ok. Add closing date of application acceptance, right?

T. Kanakos – Maybe Ms. Shrider-Fox can tell us. On page 6 D at the very top. An application is being complete when all the required and discretionary items have been submitted. What is a discretionary item? Page 6 at the top; D. An application is being complete when all the required and discretionary items have been submitted. Now, what is a discretionary item?

V. Weeks – A discretionary item might be the trim on a copula. I imagine.

T. Kanakos – I just don't know what that means; discretionary. If it's all required; I'm just trying to find out how this fits into this particular sentence.

Mary Shrider-Fox – This leads to a good point. You were just asking, "What is a discretionary item". I'm looking in the definition section to see; do they define discretionary item? These are some of the things; some of the suggestions you can make. Where maybe some of our ordinances have been lacking in the past; we have terms and we have dealt with some before that are not defined. Maybe to define; what does that mean; what kind of thing falls under discretionary item. If I had to guess; it might be in the Historical Preservation context; it's my understanding and I haven't worked too much with the Historical Board; to my understanding under certain circumstances they want to actually see a piece of the shingle; a piece of siding, but not always. They want to see some of the materials. That might be the discretionary item.

V. Weeks – I think later on; you will find in the ordinance that they are now requiring a sample. They can be a piece this big. They want to see the actual material.

Mary Shrider-Fox – That makes the discretionary even a grayer area than what we thought it was.

V. Weeks – I say, strike at discretionary.

Mary Shrider-Fox – Or define what is a discretionary item. If they still have that category; you guys are speaking in alternatives perhaps. Either define it or strike it.

E. Kost – It would be easier when the board passes a proof summary they make a motion. Is that what they do? Then there should be no discretion. Motion is this subject to the following, period. There is no discretion.

V. Weeks – No, this is about the application; when is the application complete. This isn't about when the board votes. This is what makes it complete so it can go to the meeting. Maybe they have to either strike discretionary or define it.

Mary Shrider-Fox – I guess what you mean is; that would be one of your suggestions. Perhaps; that they either define what is a discretionary item; there are required items for every application in order for it to be complete. They have this language in there and it says; and discretionary which leaves me to believe that in certain circumstances they may require something else that they don't in all other circumstances; but you have to give that for it to be complete. What we are saying here is that nobody seems what that item is or when it might be called for.

E. Kost – It sounds like what your saying is; they had a meeting; they reviewed something and they said; this is ok but we need these extra things.

V. Weeks – No; Robin would you care to address this?

R. Davis – I have to look at the application; on this application their going to want to see a sample of this or of that. On the bottom of the application; they have other; along with the other 5 thing that they want. Somebody putting in a solar panel; it's going to be hard to supply a sample of the solar pane.

V. Weeks – Why don't we just leave it that we have to strike it or leave it.

R. Davis – That happens at the application process; no when they're at the meeting. If I say; I think the board is going to want to see this. That; I guess you could say that is one of those discretionary items.

V. Weeks – I think what you are going to find that with this ordinance what they've suggested is that the board no longer has the discretion to say they want to see it. All things have to have a sample to be shown. I think later on you'll find that and this was left by mistake.

E. Kost – Strike discretionary and put in subject to project coordinator comments.

V. Weeks – No; just all required items.

R. Davis – If their going to make it all required; then you can just say; all required items. I would want the project coordinator or whoever it is; out of making the judgments. That is the problem with a lot of this; they leave it to Town Hall to make a decision; then when you get to the meeting; the applicant's jaw drops when they are asked by the board; "How come you don't have this; this and this"?

V. Weeks – Robin, read the last sentence of that paragraph. It says; applicants are required to proper legal action; to provide samples during the review process; the proposed materials to the Historic Preservation Commission for their consideration. So they are required to provide samples.

T. Kanakos – Or reasonable facsimile.

Mary Shrider-Fox – That is what this discussion is for. So that you guys can find some of the things that maybe were left in by mistake; or don't make sense. This is wonderful.

V. Weeks – Are we in agreement then that we strike discretionary or define it.

E. Kost – I think that is the right approach.

T. Kanakos – The thing about discretionary is the way politics work and things work; it's ok. That's discretionary. I don't think any board; especially the Historic Preservation should have this discretionary.

V. Weeks – Actually, it's not for the board. This is what they need to bring for the application. I think we should just say; strike it.

T. Kanakos – Strike it.

V. Weeks – No defines, strike it. Ok what's next?

T. Kanakos – Page 8, I, very bottom. Approved demolition must be within 45 days of when the party is granted the final required permit for demolition. The party shall have the one time option to renew the permit with the town for another 45 days; if the demolition can not be done within the first 45 day period. I would like to make that 60 days. The two buildings next to the movie house had to be taken down; there so many complications. First of the guy that was suppose to take it down; his truck broke; he couldn't start it; he was on another job; maybe with acceptable excuses it is alright. 60 days I think goes pretty quick.

V. Weeks – Ok, so you're changing it from three months to a total of four months.

T. Kanakos – 45 days to 60.

V. Weeks – Yes, two 45 days is 90.

T. Kanakos – Two 60.

V. Weeks – Two 60 is 120; so you're going from a total of 3 to a total of 4.

T. Kanakos – I think it gives a little more flexibility. It's a big job; sometimes they have to qualify for a loan to pay the guy.

V. Weeks – Anything else?

T. Kanakos – Hang on now; don't rush me. You said read it; I read it. Page 12 number 11. The Historic Preservation Commission shall not automatically deny the addition of such items as solar panels; cisterns or other inventions designed to produce energy or assist in conservation efforts but shall designate reasonable alternative design and or placement. How can we insure that commuter receives good technology; technical consulting on energy efficient efforts from a third party. Just recently; Del Tech has been offering a certification course for home energy audit. This appears to be a new profession; a valid profession. The electric company would send somebody in and hold a candle to your window and see if the wind blew. Now they are offering courses which are quite sophisticated and are going to be required for a mortgage. Just like radon testing. They are going to have home energy audits. These technicians now are going to school by the droves. I looked into it because I might like it. The problem is you have to spend \$2,800 on an infrared camera; you're going to need a computer as well. The new audits are very sophisticated. You put the camera up and it infrared.

V. Weeks – Actually this piece that you're talking about; the committee recognizes that they weren't sure how to do it. That's why it is in blue for the town attorney.

T. Kanakos – Energy audit. This is now a legitimate type of contractor that you would call.

V. Weeks – For example; we have two homes that I know have solar panels. One is the new one on Federal Street where the solar panels were incorporated into the roof of the porch. It looks very nice. It looks like it is metal. Then you have Corey Steel where they just plastered it onto the side of the house. I think what they wanted; they just can't say, "No, you can't have solar panels". They could have some discretion; with some help from an expert; the applicant would be required to say where these can be placed. This whole thing with solar panels is changing quickly. This area; solar panels aren't the best thing because you don't go up on your roof and wash them the way you are suppose to.

T. Kanakos – How can we insure that the commission received good technological consulting?

V. Weeks – It's up to the committee to decide how they do that.

T. Kanakos – Ok, I'm just mentioning home energy audit which would be a new profession.

V. Weeks – You can write something in there about...actually the lawyer is suppose to handle that. It's in blue.

Mary Shrider-Fox – I just want to interject that you can still make that as a suggestion; say that you noticed there was a question in blue designated for the attorney or additional review; you have an suggestion to look into the issue of home energy audit. That is a good point; a point in the right direction. I suspect that after everybody; each entity that's going to be reviewing this document before it really gets



to me for real. If you have blue questions; if you have questions that you would want to designate as a blue question; then do that as well.

V. Weeks – Ok, is there anything else?

T. Kanakos – Yes. Page 13; 3; C. No building permit; this when a property owner demolishes a structure without first obtaining a permit for demolition. C; no building permit shall be issued for this property for a period for one year from the date of demolition. I would like to see that; two years. It's quite a penalty; these folks know what they're doing. When they rip down a house without a permit; I think not only should there be a fine; but part of the fine would be to wait two years. The fellow here; Zimmerman; was knocking things down in Dover and he gets fined \$60,000. Now; if you could stop them from building for two years; they might rip down as quick.

V. Weeks – Would you like to add there that meanwhile the lot should be landscaped? I don't mean trees; it should have grass not be a muddy mess.

T. Kanakos – Not a public menace; where kids go riding a bicycle or tripping over things. It should be secured and maintained for public welfare. Gene, I don't have anymore.

V. Weeks – Ted, thank you for taking the time to do this. Al, do you have anything?

A. Perkins – You haven't addressed mine on the boundaries between Historic Preservation and Planning & Zoning.

V. Weeks - Ed, do you have anything?

T. Kanakos – They did not address the spelling errors in here. I found a few.

V. Weeks – Mrs. Frey, do you have anything?

L. Frey – No, I'll get stoned if I add more.

V. Weeks – Gene, do you have anything?

G. Steele – Nothing.

V. Weeks – Richard, do you have anything?

R. Greig – I have a question here. The green means; it should already be in place. Is that correct?

V. Weeks – The green are the changes that Ann Yarbrough and Stephanie did a couple of years ago. They were approved.

R. Greig – So they should be in effect.

V. Weeks – The problem was up until you can receive this document; they were not incorporated on piece of paper; they were separate. What this document did was take out what had been changed and put in the changed pieces.

R. Greig – I just left the Historic Preservation Committee and there are a lot of issues here. Look at page 5; 2; D; the placement of existing shingles or other siding using the same materials that are being repaired or replaced. That concept was ignored.

V. Weeks – It was approved in 2007.

R. Greig – Right, but this was this year. I think that's another thing that needs to be looked at; do the members of that commission understand what their rights are. Well the house next door to be was wrapped in plastic, basically. It looks better than it looked before; but it's still not anywhere near what they're saying here. They should have used; at least in the front of the house the way I understood it; materials like what was already there.

V. Weeks – What actually happened was; that was a different case; because what this is listing; are actions that are not required for review by the Historic District.

R. Greig – But you're suppose to do it; right?

V. Weeks – Right. That gentlemen; came before the Historic Preservation Board and got permission to put the vinyl up.

R. Greig – That was prior to my joining it originally. Then when they approved the shutters I was already on my way to this board.

V. Weeks – This refers to the fact that if they're not changing it; then they don't have to go before the Historic Preservation Board.

R. Greig – Yes, but they did change it.

V. Weeks – Yes, but he went before the board and got permission

R. Davis – Yes; he would not have gone before the board if he would have took whatever was exiting on that house and replaced it with that. If it would have been a cedar or copper roofing; or whatever; and he would have used that same shingle or copper; he would have not had to have gone before the board. Since he wanted to put vinyl siding; asphalt shingles; he had to go before the board. The board has the right to say; that is acceptable.

V. Weeks – Are there any other comments? No. Does anybody have anything they want the town attorney or Robin; the project director; before we close this up. No, wonderful. May I have a motion to adjourn, please?

T. Kanakos – I make a motion to adjourn.

G. Steele – Second.

V. Weeks – All in favor; say I.

All I's.

Adjournment 9:10:46 PM

